



1615

PATENT APPLICATION

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Applicant : Satoshi MIKAMI et al
Title : SKIN CONTACTING ARTICLE
Serial No. : 09/341 328 Group: 1615
Confirmation No.: 4999
Filed : July 6, 1999 Examiner: Channavajjala
International Application No.: PCT/JP98/00080
International Filing Date : January 13, 1998
Atty. Docket No.: Kinoshita Case 209

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

FIRST CLASS MAILING CERTIFICATE

Sir:

I hereby certify that this correspondence is being deposited with the United States Postal Service under 37 CFR 1.8 as first class mail in an envelope addressed to: Commissioner for Patents P.O. Box 1450, Alexandria, VA 22313-1450, on September 10, 2004.


Terryence F. Chapman

TFC/smd

FLYNN, THIEL, BOUTELL	Dale H. Thiel	Reg. No. 24 323
& TANIS, P.C.	David G. Boutell	Reg. No. 25 072
2026 Rambling Road	Ronald J. Tanis	Reg. No. 22 724
Kalamazoo, MI 49008-1631	Terryence F. Chapman	Reg. No. 32 549
Phone: (269) 381-1156	Mark L. Maki	Reg. No. 36 589
Fax: (269) 381-5465	Liane L. Churney	Reg. No. 40 694
	Brian R. Tumm	Reg. No. 36 328
	Steven R. Thiel	Reg. No. 53 685
	Donald J. Wallace	Reg. No. 43 977
	Sidney B. Williams, Jr.	Reg. No. 24 949

Correspondence: Request for Reconsideration
dated September 10, 2004
including enclosures listed thereon

190.05/03



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IN THE U.S. PATENT AND TRADEMARK OFFICE

September 10, 2004

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REQUEST FOR RECONSIDERATION

Sir:

This Request for Reconsideration is being filed pursuant to the communication from the Patent Office received by facsimile on September 8, 2004 in which the entry of the Supplemental Appeal Brief filed on February 23, 2004 was refused by Supervisory Patent Examiner Thurman Page. As pointed out in the Supplemental Appellants' Brief On Appeal, Applicants contested the Examiner's statement in the Examiner's Answer dated January 27, 2004, that since Applicants did not refer to the rejection of Claims 12-41 as being unpatentable under 35 USC 103 over U.S. Patent No. 5 776 497 to Lagrange et al, Applicants have acquiesced to this rejection. Applicants stated that there was no acquiescence to this rejection and that arguments concerning this reference were omitted only due to an oversight by Applicants' representative.

According to MPEP § 1206, the Examiner is required to give notice to the Applicant when an Appeal Brief fails to address any ground of rejection and give the Applicant the opportunity to correct the defect by filing a Supplemental Appeal Brief. This requirement is mandatory and not optional.

The Examiner did not give Applicants' representative any such notice and, as a result, the refusal of the Examiner and her Supervisor to enter the Supplemental Appeal Brief is clearly erroneous. If the Examiner maintains her position that the Supplemental Appeal Brief is not to be entered, she is respectfully requested to respond to the statement in MPEP § 1206, under the heading "Appeal Brief Content", where it specifically states that the Examiner shall sent out a notice that the Appeal Brief is defective and give the Applicant the opportunity to cure the defect by filing a Supplemental Appeal Brief. Otherwise, the Examiner is required to enter the Supplemental Appeal Brief and send out a Supplemental Examiner's Answer which deals with the Applicants' arguments regarding the rejection of Claims 12-41 over the Lagrange et al reference. Favorable consideration is respectfully solicited.

Respectfully submitted,


Terryence F. Chapman

TFC/smd

FLYNN, THIEL, BOUTELL
& TANIS, P.C.
2026 Rambling Road
Kalamazoo, MI 49008-1631
Phone: (269) 381-1156
Fax: (269) 381-5465

Dale H. Thiel	Reg. No. 24	323
David G. Boutell	Reg. No. 25	072
Ronald J. Tanis	Reg. No. 22	724
Terryence F. Chapman	Reg. No. 32	549
Mark L. Maki	Reg. No. 36	589
Liane L. Churney	Reg. No. 40	694
Brian R. Tumm	Reg. No. 36	328
Steven R. Thiel	Reg. No. 53	685
Donald J. Wallace	Reg. No. 43	977
Sidney B. Williams, Jr.	Reg. No. 24	949

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